

### Office Action Summary

**Application No.**

10/552,200

**Applicant(s)**

GIBSON ET AL.

**Examiner**

GORDON J. STOCK JR

**Art Unit**

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 April 2008.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-30 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1 and 3-30 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 7/18/07 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/S6108)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: 20080416  
5) ☐ Notice of Informal Patent Application  
6) ☒ Other: PTOL-413A

### DETAILED ACTION

1. The Amendment received on April 17, 2008 has been entered into the record.

#### *Drawings*

2. The Drawings received on July 18, 2007 are accepted by the Examiner.

#### *Specification*

3. The specification is objected to for the following: on page 23 lines 14 and 19 'complimentary' should read -complementary-; and on page 31 line 3 'compliment' should read -complement-. Corrections required.

#### *Claim Objections*

4. **Claim 1** is objected to for the following: on line 6 'autobody' should read -auto body-; on line 13, 'complimentary' should read -complementary-; on line 14 'preferring preliminary colorant combination with few number of pigments' should read either -preferring preliminary colorant combinations with a fewer number of pigments- or -preferring a preliminary colorant combination with a few number of pigments-; on line 20 'the presence' lacks proper antecedent basis; on line 29 'the appearance' lacks proper antecedent basis; and on line 31 'by weight' should read -by a weight-. Corrections required. **Claims 3-10** are objected to for depending from an objected base claim.
5. **Claim 7** is objected to for the following: 'comprising' should read -comprises-. Correction is required.
6. **Claim 11** is objected to for the following: on line 5 'autobody' should read -auto body-; on line 14 'said target color space values' lacks proper antecedent basis; on line 16, 'complimentary' should read -complementary-; on line 17 'preferring preliminary colorant

combination with few number of pigments' should read either –preferring preliminary colorant combinations with a fewer number of pigments- or -preferring a preliminary colorant combination with a few number of pigments-; on line 25 'the presence' lacks proper antecedent basis; on line 35 'the appearance' lacks proper antecedent basis; and on line 37 'by weight' should read –by a weight-. Corrections required. **Claims 12-19** are objected to for depending from an objected base claim.

7. **Claims 16-17** are objected to for the following: **claim 16** is improperly dependent from a limitation within **claim 11**. **Claim 17** is objected to for depending from **claim 16**.

8. **Claim 20** is objected to for the following: on line 6 'autobody' should read –auto body-; on line 13, 'complimentary' should read –complementary-; on line 14 'preferring preliminary colorant combination with few number of pigments' should read either –preferring preliminary colorant combinations with a fewer number of pigments- or -preferring a preliminary colorant combination with a few number of pigments-; on line 21 'the presence' lacks proper antecedent basis; on line 22 'said matched coating composition' lacks proper antecedent basis; on line 30 'the appearance' lacks proper antecedent basis; and on line 32 'by weight' should read –by a weight-. Corrections required. **Claims 21-26** are objected to for depending from an objected base claim.

9. **Claim 25** is objected to for the following: 'is automobile bumper guard' and 'is autobody' should read -is an automobile bumper guard- and -is an auto body- respectively. Corrections required.

10. **Claim 26** is objected to for the following: 'claim 11' should read –claims 11-. Correction is required.

11. **Claim 27** is objected to for the following: on lines 7-8 'said target color space values' lacks proper antecedent basis; on line 10, 'complimentary' should read –complementary-; on line 11 'preferring preliminary colorant combination with few number of pigments' should read either –preferring preliminary colorant combinations with a fewer number of pigments- or -preferring a preliminary colorant combination with a few number of pigments-; on line 19 'the presence' lacks proper antecedent basis; on line 29 'the appearance' lacks proper antecedent basis; and on line 31 'by weight' should read –by a weight-. Corrections required. **Claims 28-30** are objected to for depending from an objected base claim.

***Claim Rejections - 35 USC § 112***

12. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

13. **Claims 1, 2-30** rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As for **claims 1, 11, 20, and 27**, the phrase 'with fewer number of pigments' is indefinite, for it is unclear to what the preliminary colorant combination is being compared with the use of the term, 'fewer.'. **Claims 3-10, 12-19, 21-26, and 28-30** are rejected for depending from a rejected base claim.

***Allowable Subject Matter***

14. **Claims 1, 2-15, 18-30** would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, and the objections set forth in this Office action.

As to **claim 1**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in a method for producing a matched coating composition the particular steps (v) and (vi), in combination with the rest of the limitations of **claims 1, 3-10**.

As to **claim 11**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in a color characterizing device the particular means for configuring computer readable program code devices to cause to said computer to balance said preliminary colorant combinations and to select an optimal viable combination, in combination with the rest of the limitations of **claims 11-19**.

As to **claim 20**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in a method for producing a matched resin the particular steps (v) and (vi), in combination with the rest of the limitations of **claims 20-26**.

As to **claim 27**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in a portable computer usable storage medium having computer readable code means the particular means for configuring computer readable program code devices to cause to said computer to balance said preliminary colorant combinations and to select an optimal viable combination, in combination with the rest of the limitations of **claims 27-30**

#### ***Response to Arguments***

15. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. Examiner would like to mention that applicant's arguments in regards to the previous rejections under 35 U.S.C. 103(a) and 102(b) were found persuasive (see Remarks pages 11-13 filed April 17, 2008). Due to the amendment to the claims

and the persuasiveness of the arguments the previous rejections under 35 U.S.C. 103(a) and 102(b) have been withdrawn.

***Conclusion***

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Fax/Telephone Numbers***

If the applicant wishes to send a fax dealing with either a proposed amendment or a discussion with a phone interview, then the fax should:

1) Contain either a statement "DRAFT" or "PROPOSED AMENDMENT" on the fax cover sheet; and

2) Should be unsigned by the attorney or agent.

This will ensure that it will not be entered into the case and will be forwarded to the examiner as quickly as possible.

Art Unit: 2877

*Papers related to the application may be submitted to Group 2800 by Fax transmission. Papers should be faxed to Group 2800 via the PTO Fax machine located in Crystal Plaza 4. The form of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CP4 Fax Machine number is: **(571) 273-8300***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gordon J. Stock whose telephone number is (571) 272-2431.

The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr., can be reached at 571-272-2800 ext 77.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private Pair system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/G. J. S./

Examiner, Art Unit 2877

/Gregory J. Toatley, Jr./

Supervisory Patent Examiner, Art Unit 2877

27 May 2008